

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MOTION, PURSUANT TO SECTION 2255 OF TITLE 28  
UNITED STATES CODE

ATTACKING A SENTENCE IMPOSED BY THAT COURT

UNITED STATES OF AMERICA  
VS.

CV 08 3839

Damone Stoney

(name of movant)  
(Full name under which you  
were convicted)

CASE NO.  
(To be supplied by the  
Clerk of the District Court)

Sup Ct. No. CR08-28075

(PR)

INSTRUCTIONS-READ CAREFULLY

In order for this motion to receive consideration by the District Court, it shall be in writing (legibly handwritten or typewritten) by the Movant, under penalty of perjury, and it shall set forth in concise form the answers to each applicable question. If necessary, Movant may finish his answer to a particular question on the reverse side of the page or on an additional blank page. Movant shall make it clear to which question any such continued answer refers.

Since every motion under Section 2255 of Title 28, United States Code, must be made under penalty of perjury, any false statement of a material fact therein may serve as the basis of prosecutions and conviction for perjury. Movant should therefore exercise care to assure that all answers are true and correct.

If the motion is made in forma pauperis, it shall include an affidavit (page 6 of this form) setting forth information which establishes that the Movant will be unable to pay the fees and costs of the 2255 proceedings. When the form is completed, the original and 2 copies shall be mailed to

5440  
FILED  
AUG 11 PM 5:01  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
WHA

608-3839 WHA

the Clerk of the District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102.

1. Place of detention Deuel Vocational Institution, P.O. Box 600, Tracy, Calif. 95378-0600

2. Name and location of Court which, and name of judge who, imposed sentence Superior Court of California County of San Joaquin, 222 East Weber Ave., 303, Stockton, CA, 95202-2777

3. The indictment number or numbers (if known) upon which the offense or offenses for which sentence was imposed.:

(a) Cal. Pen. Codes - 8858 12020, 12021, 12025, 496, 4811364  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_

4. The date upon which sentence was imposed and the terms of the sentence:

(a) (Sept. 16, 2007)  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_

5. Check whether a finding of guilty was made:

(a) after a plea of guilty (a) ✓  
 (b) after a plea of not guilty \_\_\_\_\_  
 (c) After a plea of nolo contendere \_\_\_\_\_

6. If you were found guilty after a plea of not guilty, check whether that finding was made by

(a) a jury \_\_\_\_\_  
 (b) a judge without a jury (b) ✓

7. Did you appeal from the judgment of conviction or the imposition of sentence? NO

8. If you answered "yes" to question 7, list

(a) the name of each court to which you appealed:

I \_\_\_\_\_ N/A  
 II \_\_\_\_\_  
 III \_\_\_\_\_

(b) the result of each such court to which you appealed:

I \_\_\_\_\_ N/A  
 11 \_\_\_\_\_  
 111 \_\_\_\_\_

(b) the date of each such result:

I \_\_\_\_\_ N/A  
 11 \_\_\_\_\_  
 111 \_\_\_\_\_

(c) If known, citations of any written opinions or orders entered pursuant to such results:

I \_\_\_\_\_ NONE  
 11 \_\_\_\_\_  
 111 \_\_\_\_\_

9. State concisely the grounds on which you base your allegation that the sentence which was imposed on you is invalid.

(a) *Petitioner/Plaintiff's challenge is to the Duration of Confinement beyond the Statutory imposed Sentence by the Court, which has exceeded 50% of the 2 yrs. 8-months required by the Court to be served. I HAVE completed 28-mos. (2 yrs. 4-mos.) on a 32-mos. Sentence, Violation of my Rights.*  
 (b) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(c) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) *(Petitioner/Plaintiff) is incarcerated beyond expiration date of state (Sentence/Conviction) with 50%. Is acting in pro se (advis) own defense. This is action brought by the (Plaintiff/Petitioner) against the Defendant et al. who →*  
 (b) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(c) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*Contin. pg. 3*

*in their individual and Representative Capacities, illegally, Caused (him) to be imprisoned at the (Devel. Vocation Institution) (D. V.I.) Prison Facility for a Period (480- days) which is (8 1/2) months beyond the Maximum Expiration Date of (his) State Sentence.*

11. Have you previously filed petitions for habeas corpus motions under section 2255 of Title 28, United States Code, or any other applications, petitions or motions with respect to this conviction?

28 U.S.C. §§ 2255, 2241, 1331, 1343, (3), (4) F.R.C.P. - § 86(b)

12. If you answered "yes" to (11), list with respect to each petition, motion or application

(a) the specific nature thereof:

I \_\_\_\_\_ *N/A*  
 11 \_\_\_\_\_  
 111 \_\_\_\_\_

(b) the name and location of the court in which each was filed:

I \_\_\_\_\_ *N/A*  
 11 \_\_\_\_\_  
 111 \_\_\_\_\_

(c) the disposition thereof:

I \_\_\_\_\_ *N/A*  
 11 \_\_\_\_\_  
 111 \_\_\_\_\_

(d) the date of each disposition

I \_\_\_\_\_ *N/A*  
 11 \_\_\_\_\_  
 111 \_\_\_\_\_

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

I \_\_\_\_\_ *N/A*  
 11 \_\_\_\_\_  
 111 \_\_\_\_\_

13. Has any ground set forth in (9) been previously presented to this or any other federal court by way of petition for habeas corpus, motion under section 2255 of Title 28, United States Code, or any other petition, motion or application? NO

14. If you answered "yes" to (13), identify

(a) which grounds have been previously presented:



The Plaintiff/Petitioner in this action seeks Declaratory Relief and Money Damages for Violation of (his) Federal Protected Rights, Privileges and Immunities Secured under the 8<sup>th</sup>, 5<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Const. purs. 28 U.S.C. §§ 2255, 2241, 1331, 1343(3) (4).

The Jurisdiction of this Court arises under 28 U.S.C. §§ 2255, 2241, 1331, 1343(3), (4), 2201, 2202.

The Defendant (Tom Hoffman) is employed as a County of San Joaquin Superior Court Judge of San Joaquin County Court System for the (State of Calif.) in the (City of Stockton), who convicted Plaintiff.

The Defendant (Steve Moore) is employed by (C.D.C.R.) (Calif. Dept. of Corrections and Rehabilitation) as the Warden of (D.V.I.) Prison (Devel Vocational Institution) (23500 KASSON ROAD P.O. BOX #400, Tracy, Calif. 95378-0400) and as such is responsible for the Operations, Oversight of Prison Administration and its personnel, and the Safety and Security of the Prison. Including the Computation of time Vested Credits of Parolee's time Served in (his) Custody and the setting of their Parole Dates for immediate Release.

On And before (Oct. 05, 2005) the Plaintiff/Petitioner was Legally Incarcerated at the (D.V.I.) Prison purs. to a Judgment issued by the (Superior Court of San Joaquin) in the city of Stockton (State of Calif.), following (his) felony Conviction.

The legal Imposed Sentence of the Plaintiff/Petitioner expired on (April, 5, 2008) as time served (848 days) Credit. [REDACTED]

As a result of the "Intentional Conduct", the "Reckless Conduct or the Gross negligent Conduct" of the defendant-et.al. Herein the Plaintiff/Petitioner was detained at the (D.V.I.) Prison Correctional facility beyond the Maximum expiration Date of Sentence.

Plaintiff was held in custody at the (D.V.I.) Prison illegally and in violation of (his) Constitutionally Protected



rights to liberty until (April, 05, 2008) (120 days) after the expired maximum sentence of (his) release date.

Immediately upon receiving this information, (Plaintiff/Petitioner) filed an appeal complaint to (D.V.I.) Prison Warden (STEVE MOORE) and (C.C.H. S. White) on 7/26/08 and have not received any results.

Upon information and belief, the failure of communication of the (Plaintiff/Petitioner's) sentence, is intentional in nature and matter of policy, as there exists no system by which the jail time computation of a local sentence is communicated to state authorities.

The failure of Defendant, et al. to implement the law to properly communicate state law sentence to properly implement vested credits to (Plaintiff/Petitioner's) sentence violated the (his) Fed. protected rights under statutes of the (State of Calif.) and under United States Constitution.

The Defendant, et al. Warden, C.C.H., and Judge have an affirmative duty to properly compute (Plaintiff's) maximum expiration date and release thereon.

As a result of the foregoing, the (Plaintiff/Petitioner) was deprived of (his) right to be free of excessive punishment, penance, servitude and slavery, under the 8<sup>th</sup>, 5<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> Amendments of the U.S. Constitution, and the substantive and procedural due process guaranteed by state and federal laws.

Wherefore (Plaintiff) request this Court grant relief and damages of \$120.00 each that I am beyond my parole release date. (April, 5, 2008)

Date, Aug. 4, 2008

Respectfully Submit,

x Damon Moore  
(In Pro Se)

I \_\_\_\_\_ N/A  
11 \_\_\_\_\_  
111 \_\_\_\_\_

(b) the proceedings in which each ground was raised:

I \_\_\_\_\_ N/A  
11 \_\_\_\_\_  
111 \_\_\_\_\_

15. Were you represented by an attorney at any time during the course of

- (a) your arraignment and plea? YES / Public Defender  
(b) your trial, if any? YES / Public Defender  
(c) your sentencing? YES / Public Defender  
(d) your appeal, if any, from the judgment of conviction of the imposition of sentence? NO

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? (IN PRO SE)

16. If you answered "yes" to one or more parts of (15), list

- (a) the name and address of each attorney who represented you:  
I Public Defender - Lois Keenan, 102 So. San Joaquin, Rm. 1, P.O. Box 201030  
STOCKTON, CALIF. 95201-9030  
11 \_\_\_\_\_  
111 \_\_\_\_\_

WHEREFORE, movant prays that the Court grant movant relief to which he may be entitled in this proceeding.

Signed under penalty of perjury of the State of California at Tracy, CA. 95378-0600

(Aug. 4, 2008)  
Date

Damone Moray  
Signature of Movant

57-

USA FIRST CLASS FOREVER

STOCKTON/STKN  
CA 95231  
05 AUG 2008 PM

Demore Storey, #T-95072  
Devel Vocational Institution  
P.O. Box #600  
Troy, Calif. 95378-0600

11  
Confidential  
Legal Mail

U.S. District Court of California  
Northern District of California  
450 Golden Gate Ave.  
San Francisco, CA 94102

94102+3661 C004



*[Handwritten signature]*

*[Handwritten mark]*

2255 Wofon  
CLEMSON UNIVERSITY  
NORTH BRANCH, SOUTH CAROLINA

11-12-11

*[Handwritten mark]*